

Application No. : 09/890,366
Filing Date : July 26, 2001
Reply To Office
Action Dated : October 8, 2004

REMARKS

The foregoing amendments to the claims are responsive to the October 8, 2004 Office Action in which the Examiner rejects Claims 6-14 and under 35 U.S.C. §112, second paragraph, and Claims 1 and 6-14 under 35 U.S.C. §112, first paragraph. As discussed more fully below, Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. § 112, first and second paragraphs.

Discussion of the Amendments

By the foregoing amendments, Applicants have Amended Claims 1 and 12-14 and have canceled Claims 6-8 without prejudice or disclaimer. No new matter is introduced by the amendments of Claims 1 and 12-14. Additionally, Applicants submit that all of the amendments place the present application in better condition for appeal, do not raise new issues, and/or make the outstanding rejections moot.

Claims 6-14 Fully Comply With 35 U.S.C. § 112

The Examiner rejected Claims 6-14 as being indefinite under 35 U.S.C. § 112, second paragraph. Applicants respectfully traverse the present rejections. However, in order to expedite prosecution of the present application, Applicants have amended Claims 12 and 14 solely to make these claims more easily readable and not to narrow or affect the scope of this claim. Additionally, also to expedite prosecution of the present application, Claims 6-8 have been canceled without prejudice or disclaimer, and thus, the rejections of these claims are now moot.

In response to the rejection of Claim 12 based on the recitation of "at least one of other aggregates and particle nuclei" Applicant submits that this format of alternative language has long been widely used and accepted by the patent office. A full text search of claims in issued U.S. patents for the term "at least

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one of" (easily performed on the U.S. Patent Office web site) yields **1,023,886** hits. A brief review of these hits reveals that the term "at least one of" is commonly used in the format "at least one of A and B." This format is commonly used to claim elements in a way that means A and/or B, resulting in the following 3 alternatives: (1) A, (2) B, and (3) A and B.

In any event, in order to expedite prosecution of the present Application, Applicant has deleted the term "at least one of other aggregates and particle nuclei." Thus, this rejection is now moot.

In response to the rejection of Claim 12 based on the phrase "past of the laser beam", Applicant has deleted the term "of". Applicant submits that this change was contemplated by the Examiner at page 3 of the Office Action. Additionally, the Examiner assumed this correction in the rejection of Claim 12 under 35 U.S.C. § 112, first paragraph (discussed below). Thus, because the Examiner already presumed this meaning for Claim 12, this change to Claim 12 should be entered because it places the application in better condition for appeal and does not raise new issues.

In response to the rejection of Claim 14 based on the lack of antecedent basis for the term "the position", Applicant has amended Claim 14 to recite "a position. Again, Applicant submits that this change places the Application in better condition for appeal and does not raise new issues

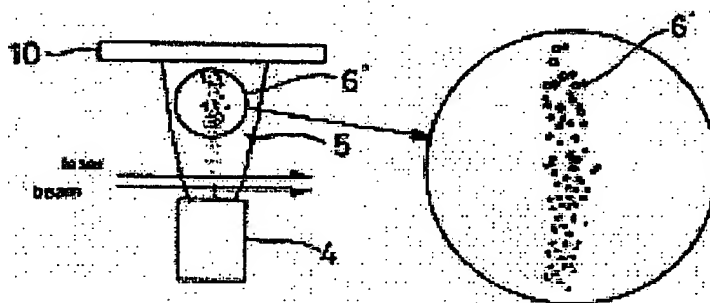
With regard to the rejection of Claims 1 and 6-14 under 35 U.S.C. § 112, first paragraph, Applicant respectfully traverses the present rejection.

In response to the rejection of Claim 1, based on the recitation of "where the aggregates start being formed," Applicant submits that this phrase is clearly supported by the present Application at page 8, lines 5-7, where the specification discloses "irradiating a laser beam in the wavelength range in which particles readily absorb the laser beam into the tiny aggregates at an early initial

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aggregation stage..." (Emphasis added). However, in order to expedite prosecution of the present Application, Applicant has canceled the phrase "where the aggregates start being formed," and has also canceled Claim 8. Thus, Applicant submits that this amendment should be entered because it places the Application in better condition for appeal.

In response to the rejection of Claim 12 based on the recitation that the "aggregates flow past the past beam," Applicant submits that the non-limiting embodiment of Figure 5 (reproduced



adjacently hereto) clearly illustrates that particles 6' flow past the laser beam. The specification at page 8, lines 22-23 discloses that "the particles become much smaller-sized spherical particles (6' of FIG. 5) compared to those (6 of FIG. 4) without laser incidence."

Unamended Claim 12 recited "so as to fuse said aggregates." Claim 12 has been amended to add a label to these aggregates that are fused; now referred to as "fused aggregates." This label is merely used for clarity and to make Claim 12 more easily understandable. These fused aggregates are referred to as "fine particles" in Claim 1, and are also referred to as "much smaller-sized spherical particles" in the specification at page 8, line 22-23.

Additionally, the term "fused" was used in unamended Claim 1 without objection from the Examiner. Thus, Applicant reasonably assumes that there should not be any objection to the continued use of the term "fuse." Applicant thus submits that one of ordinary skill in the art would clearly understand that the

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fused aggregates now recited in Claim 12 are fused in the laser beam and flow upwardly past the laser beam toward the substrate¹⁰. Thus, Applicant submits that Claim 12 is clearly supported by the present specification.

However, even if the Examiner disagrees, Applicant submits that the amendment to Claim 12 should be entered because it places the Application in better condition for appeal. Additionally, since Applicant has only added the word "fused" to provide a label for purposes of antecedent basis and since unamended Claim 12 recited that the aggregates were fused, no new issues are raised by the addition of the word "fused."

Finally, with respect to the rejection of the claims based on the phrase "collecting," Applicant submits that the Examiner has not identified in which claim(s) an unacceptable use of the term "collecting" appears. Thus, Applicant cannot adequately respond to the outstanding rejection as written. Applicant respectfully requests that if the outstanding rejection of the claims based on the term "collecting" is further maintained, then the finality of the outstanding Office Action be withdrawn.

In any event, in an effort to respond to this rejection as written, Applicant has amended Claims 13 and 14 to recite "the fused aggregates" and "said fused aggregates," respectively. Applicant submits that one of ordinary skill in the art would understand from the present specification that the "fused aggregates" recited in Claim 12 are aggregates that have been fused by the laser; where such fused aggregates are referred to as "fine particles" in Claim 1, and "much smaller-sized spherical particles" in the specification at page 8, line 22-23. Thus, Claims 13 and 14 are fully supported by the present specification.

In any event, even if the Examiner does not agree that amended Claims 13 and 14 are supported, Applicant submits that these amendments place the application in better condition for appeal, and do not raise new issues.

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Request For Telephone Interview

In view of the forgoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, Applicants' undersigned attorney of record hereby formally requests a telephone interview with the Examiner. Applicants respectfully request the Examiner to call the undersigned attorney of record at 949-721-6384 (direct) or at the general office number listed below.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 22, 2004

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